

Barrington Police Department

Chapter XX



Body Worn Cameras

Implement
Date

11/03/2020

Patrol Operations

Revised Date

Supersedes

This written directive is for the internal governance of the Barrington Police Department, and as provided by NHRSA 516:36, is not intended and should not be interpreted to establish a higher standard of care in any civil or criminal action than would otherwise be applicable under existing law. This written directive is promulgated under the authority of NHRSA 105:2-a.

ISSUING AUTHORITY

George Joy
Chief of Police

BACKGROUND

The Axon Body Worn Camera is an “on-officer” video/audio recording system that will be used by officers to document incidents occurring in the field. The following policy will be followed by officers during use of an Axon Body Flex 3.

PURPOSE

The body worn camera policy of the Barrington Police Department is intended to provide officers with instructions on when and how to use body-worn cameras (BWCs) so that officers may reliably record their contacts with the public in accordance with other sections of this manual and NH RSA 570-A:2, Interception and Disclosure of Telecommunications or Oral Communications Prohibited.

RESPONSIBILITY

It is the policy of the Barrington Police Department that officers shall activate the BWC when such use is appropriate to the proper performance of his or her official duties, where the recordings are consistent with this policy, other sections of this manual and law. This policy specifically excludes the use of surreptitious recording devices used in undercover operations. All Officers assigned to a uniform shift shall wear and utilize the assigned Axon Body Worn Camera.

ADMINISTRATION

The Barrington Police Department has adopted the use of the Axon Body Worn Camera to accomplish several objectives.

- A. Axon Body Worn Camera allows for accurate documentation of police-public contacts, arrests, and critical incidents. They also serve to enhance the accuracy of officer reports and testimony in court.
- B. Audio and video recordings also enhance this agency’s ability to review probable cause for arrest, officer and suspect interaction, evidence for investigative and prosecutorial purposes and to provide additional information for officer evaluations and training.

- C. Axon Body Worn Camera may also be helpful in documenting crime and accident scenes or other events that include the confiscation and documentation of evidence or contraband.
- D. Officers shall activate the BWC to record all contacts with citizens during the delivery of law enforcement and police services. Officers may use their discretion when deciding to activate the BWC during incidental public contact during the ordinary course of a duty day. However, when used for incidental contact, the documentation of such recordings shall be consistent with other sections of this procedure.
 - 1. Starting recording early; it is evidentially valuable to record as much of the incident as possible; therefore, recording should begin at the earliest opportunity from the start of an incident.
 - 2. Except as authorized in this policy, no person, including without limitation the officer and their supervisors, shall edit, alter, erase, delete, duplicate, copy subject to automated analysis or analytics of any kind, including but not limited to facial recognition technology, share, display, or otherwise distribute in any manner any BWC recordings or portions thereof. This paragraph shall not apply to sharing of a still image captured by the BWC to help identify individuals or vehicles suspected of being involved in a crime. (NH RSA 105:D)
 - 3. If an officer is suspected of wrongdoing or involved in an officer-involved shooting or other use of deadly force, video(s) associated with the case, shall be restricted and the involved officer(s) denied access to view the associated video(s). (NH RSA 105:D)
 - 4. A Law Enforcement Officer making a body-worn recording pursuant to RSA 105-D shall be exempt from Wiretapping and eavesdropping under RSA 570-A:2, only if that officer is in accordance with the conditions and terms of 105-D:2 .
 - 5. Consistent with NH RSA 570-A:2, Interception and Disclosure of Telecommunications or Oral Communications Prohibited, whenever possible, officers shall inform individuals that they are being recorded. When notification is not made, the recording officer shall note the reason for non-notification within the associated police report.
 - 1. When in locations where individuals have a reasonable expectation of privacy, such as a residence, they may decline to be recorded unless the recording is being made as part of a call for police service, is pursuant to an arrest or a search of the residence or individuals is being conducted. If a person lawfully declines to be recorded, when prudent, the officer shall video record the person's request to deactivate the BWC, the deactivate the camera. The officer shall document the reason why the camera was deactivated in the associated police report.
 - 2. Once activated, the BWC shall remain activated until the event is completed in order to ensure the integrity of the recording unless the contact moves into an area restricted by this policy.
 - 6. If an officer fails to activate the BWC, fails to record the entire contact, or interrupts the recording, the officer shall document why a recording was not made, was interrupted, or was terminated as part of their Barrington Police Department incident, investigation, or arrest report, as applicable.
 - 7. Non-Law Enforcement personnel shall not be allowed to review the recordings at the scene; and, any requests for viewing shall be consistent with the delivery of discovery as part of pre-trial preparation; or, as part of a public information request under NH RSA Chapter 91-A, Access to Governmental Records and meetings.

8. Officers may review BWC recordings prior to preparing reports to ensure that all relevant information needed to accurately describe police activities is included in the written report.

DEFINITIONS

- A. **Body Worn Camera or BWC**—an electronic camera system for creation, storing, displaying and processing audiovisual recordings that may be worn about the person of a law enforcement officer. (NH RSA 105:D-1)
- B. **Community Caretaking functions**—a task undertaken by a member of a law enforcement officer in which the officer is performing an articulable act unrelated to the investigation of a crime. It includes but is not limited to, participating in town halls or other community outreach, helping a child find his or her parents, proving death notifications, dealing with individuals asking for directions or other assistance, and performing in-home or hospital well-being checks on the sick, elderly, or persons presumed missing. (NH RSA 105:D-1)
- C. **“In Uniform”**—a law enforcement officer who is wearing any officially authorized uniform designated by a law enforcement agency, or a law enforcement officer who is visibly wearing articles of clothing, a badge, tactical gear, gun belt, a patch, or other insignia that he or she is a law enforcement officer acting in the course of his or her duties. (NH RSA 105:D-1)
- D. **Law Enforcement Officer**—any sworn person employed by a law enforcement agency with arrest powers. (NH RSA 105:D-1)
- E. **Law Enforcement Agency**—a State, County, Municipality, Special District, Security service or Police of the Community College System of New Hampshire and the University System of New Hampshire, Security Service of the Legislative or Judicial Branch, unit of Local Government Police Department or any of other entity authorized by the law to employ law enforcement officers or exercise police authority. (NH RSA 105:D-1)
- F. **Law Enforcement related encounters or activities**—include but not limited to, traffic stops, pedestrian stops, arrests, searches, interrogations, investigations, pursuits, crowd control, traffic control, non-community caretaking interactions with an individual while out on patrol, or any other instance in which the officer is enforcing laws of the municipality, county, or state. (NH RSA 105:D-1) The term does not include:
 - 1 Activities when the officer is completing paperwork alone or is in the presence of another law enforcement officer or officers or
 - 2 Community Caretaking functions
- G. **Recording**—the process of capturing data or information stored on a recording medium. (NH RSA 105:D-1)

- H. **Recording Medium**—any recording for the retention and playback of recorded audio and video including but not limited to, VHS, DVD, hard drive, cloud storage, solid state, digital, flash memory technology, or any other electronic medium. (NH RSA 105:D-1)
- I. **Subject of Recording**—any law enforcement officer or any suspect, victim, detainee, conversant, injured party, witness, or other similarly situated person who appears on the recording and shall not include people who only incidentally appear on the recording. (NH RSA 105:D-1)
- J. **Agency Administrator**—Evidence.com system administrator with full access to user rights. (Chief, Deputy Chief, or Sergeants)
- K. **End User**— Axon Body Worn Camera user with individual account access rights to Evidence.com
- L. **Axon Body Worn Camera** —On-Officer audio/video system consisting of primarily three components: Axon Body Worn Camera, mounting device, and Axon Body Worn Camera Controller.
- M. **Axon Body Worn Camera** —is audio and color/low light video camera which can be mounted through various other accessories such as glasses, hats, helmets or fitted head bracket.
- N. **Axon Body Worn Camera** --controller enable user to turn on/off the unit, begin/end recording of an event. Controller also contains LEDs to indicate the operating mode and battery capacity.
1. Operation LED--shows the controller's operating mode:

BLINKING RED	RECORDING
BLINKING GREEN	BUFFERING
SOLID RED	BOOTING UP
BLINKING YELLOW	CABLE IS DISCONNECTED
 2. EVENT BUTTON--Large button in the middle of controller. Double press to activate camera and start event mode. Hold for three seconds to stop event mode and return to buffering mode.
 3. Battery LED--Displays a colored ring around Event Button to show battery level.

Green	Fully Charged
Yellow	20-40% Battery
Red	Less than 20%
- O. **Evidence.com**--On-line web based digital media storage facility accessed at Evidence.com website.

- P. **Media or Data**--includes photographs, audio recordings and video footage. the media is stored digitally

POLICY

Officers of the Barrington Police Department shall activate Axon Body Worn Camera when such use is appropriate to the proper performance of his/her official duties, where the recordings are consistent with this policy and New Hampshire RSA 105-D. This policy does not govern the use of recording devices used for undercover operations.

All Officers of the Barrington Police Department shall be issued Axon Body Worn Camera and shall record calls as outlined by New Hampshire RSA 105-D and this policy. Retention and destruction of the Axon Body Worn Camera and media shall be adhered to as authorized pursuant to New Hampshire RSA 105-D and outlined within this policy.

PROCEDURE

A. Storage

1. When not on shift or downloading data, Axon Body Worn Camera will be stored in the Patrol room in the docking station.

B. Pre-Shift Inspection

1. Officers shall inspect the Axon Body Worn Camera, Controller, and mounting device daily to ensure there is no visual damage and Axon Body Worn Camera is in working order. Visual damage will be immediately reported to Chief or Chief's designee.
2. Axon Body Worn Camera is the responsibility of the individual officers and will be used with reasonable care to ensure proper functioning. Equipment malfunctions shall be brought to the attention of the Chief of Police as soon as possible so that the unit can be sent for repair or replacement.
3. Any officer that has a malfunction on with their Axon Body Worn Camera shall use a spare camera during that shift and will assign that spare camera to themselves during the time of usage.

C. Operating Modes of Axon Body Worn Camera

1. **Buffering Mode**--Controller turned on, Axon Body Worn Camera continuously loops video only recording for 30 seconds. No audio is recorded in this mode. Officers will have camera in Buffering Mode at all times when outside of the police department building.
2. **Event Mode**--To activate, press the Event Button twice quickly. Officer will hear a beep notifying that the Axon Body Worn Camera Event Mode has begun. Camera will beep every 5 minutes to notify officer that the Event Mode is still active. Audio and Video recording has begun. Hold Event Button for three seconds to stop Event Mode. Axon Body Worn Camera will double beep to advise Event Mode has stopped recording and Axon Body Worn Camera as returned to Buffering Mode.

D. Direct Use of Axon Body Worn Camera

1. The Axon Body Worn Camera shall be worn at all times by assigned and trained uniformed officers during all assigned shifts.
2. The Axon Body Worn Camera shall be utilized during all Law Enforcement related contacts (I.e.: pedestrian and vehicle stops, consensual encounters, calls for service, on-view events, etc.)
3. Officers keep the Axon Body Worn Camera in "buffer "mode until such time it is required to place the Axon Body Worn Camera in Event Mode, this will be done as soon as practical and as close to the beginning of contact as possible.
4. Axon Body Worn Camera shall be in Event Mode any time the emergency lights are activated.
5. If officers are not responding code to a call for service, the Axon Body Worn Camera will be put into Event Mode upon arrival at the scene of the incident/call for service, or when engaged in any law enforcement related encounter or activity.
6. Officers shall, at the beginning of the contact, advise all subjects involved in the contact the following: **"We are being Audio and Video recorded."**
7. When inside a private residence, Officers will advise the following: **"We are being Audio and Video recorded, is this okay?"** If requested to turn off the camera Officers will document in their report why the camera was turned off.
8. Once in Event Mode, officers shall continue to record until the completion of the event, or they leave the scene, in order to ensure the integrity of the recording. (this includes recording of statements). Unless:
 - (a) Inside a private home and the resident asked for camera to be turned off.
 - (b) Officers will explain the use of the camera if subject objects to the camera.
9. Officers will not use Axon Body Worn Camera to record private conversations that have no Law Enforcement purpose.
10. Axon Body Worn Camera will not be used to record inside of hospitals or while on the grounds of any public, private, or parochial elementary or secondary school, except when responding to an imminent threat to life or health or a call for service
11. Axon Body Worn Camera will be specific to an incident. Officers shall not indiscriminately record entire duties or patrol.
12. Axon Body Worn Camera will not be used in Departmental locker rooms, restrooms or any other place where there would be a reasonable expectation of privacy.
13. Employees will not record confidential informants or undercover officers.
14. Axon Body Worn Camera will not be used for Department Internal Investigations without the written consent of the officer involved and the written permission from the Chief of Police.
15. If an officer fails to activate the Axon Body Worn Camera, fails to record the entire contact, or interrupts the recording, the officer shall document why a recording was not made, was interrupted, or was terminated in the police incident report.
16. Recordings made from the Barrington Police Department Axon Body Worn Camera shall be for Law Enforcement purposes only. All access to this data shall be audited by the Chief of Police or his designee to ensure that authorized users only are accessing the data for Law Enforcement purposes only. All access to Axon Body Worn Camera data shall be authorized by the Chief of Police or his designee and only for the purposes set forth in this policy.
17. In locations where an individual has a reasonable expectation of privacy, such as a residence, a restroom, or a locker room, a citizen may decline to be recorded unless the recording is being made while executing an arrest warrant, or a warrant issued by a court, or the officer is in the location pursuant to a judicially-recognized exception to the warrant requirement. Officers shall inform an individual of this option. If a citizen then declines to be recorded, the officer, shall deactivate the

audio and video functions, and any images shall, as soon as practicable, be permanently distorted or obscured. The officer shall document the reason why the camera was not activated in the associated report.

E. Restrictions on Usage of Axon Body Worn Camera

1. The Axon Body Worn Camera shall not be used to record any of the following:
 - a. Communications with other police personnel except to the extent such communications are incidental to a permissible recording.
 - b. When on break or otherwise engaged in personal activities; or
 - c. Encounters with police personnel or individuals whom the officers know are acting in an undercover capacity or as confidential informants respectively, unless expressly directed to be included as part of the investigation.
2. Private conversations that have no Law Enforcement Purposes.
3. Intimate searches/strip searches.
4. Picketing or First Amendment demonstrations, unless obvious violations of criminal law or town ordinance is occurring.
5. An interview with a crime victim unless his or her express consent has been obtained before the recording is made. Any recording obtained shall be consistent with the New Hampshire Attorney Generals model protocol for response to adult sexual assault cases, the New Hampshire Attorney Generals domestic violence protocol for law enforcement, the New Hampshire Attorney Generals stalking protocol for Law Enforcement, and the New Hampshire Attorney Generals child abuse and neglect protocol, as applicable. This subparagraph may be waived upon approval of the Chief of Police, when the parent or legal guardian is the subject of the investigation to which a juvenile is a victim or witness.
6. Interactions with a person seeking to report a crime anonymously. In such an instance, the law enforcement officer shall, as soon as practicable, ask the person seeking to remain anonymous if the person wants the officer to use the Axon Body Worn Camera. If the person does not wish to be recorded the Axon Body Worn Camera will be deactivated.
7. While on the grounds of any public, private, or parochial elementary or secondary school, except when responding to an imminent threat of life or health or a call for service.

F. Labeling, Reviewing, and Downloading Media.

1. Axon Body Worn Camera Media can be labeled two ways.
 - (a) Use of a Smartphone that has the Axon Mobile software.
 1. User is able to view recent evidence and can label evidence with an Offense, Arrest, Accident or Citation number.
 2. User is unable to save evidence to his/her smart device and only able to add metadata or view the video in a streaming format.
 3. Metadata added to the data does not alter the recording.
 - (b) Evidence.com
 1. User is able to view recent evidence and past downloaded evidence by this User. User can label evidence with Offense, Arrest, Accident or Citation Number. Users can download videos to CD from this screen and can also view chain of custody from this sheet.

- 2) Media captured with the Axon Body Worn Camera shall be downloaded to Evidence.Com (or external media hard drive if Evidence.com is no longer in use by the agency) at the end of all shifts. All media shall be labeled with an Offense, Accident, Arrest or Citation number in accordance with Barrington Police Department reporting labels.
- 3) Media captured for all Arrest Cases shall be burn to CD. One copy for Prosecution and one copy for defense. CDs will be given Property Room numbers and stored in the property room.
- 4) When an incident arises that requires the immediate retrieval of digital recording (serious crime scenes, Officer Involved Shooting, department involved MV crashes, etc.) the Chief of Police shall respond to the scene to secure the Axon Body Worn Camera and maintain a chain of custody. The digital evidence will then be marked as "sensitive" within Evidence.com, which will restrict access to only those given access to the category.
- 5) Media captured by the Axon Body Worn Camera will be used for official purposes only.
- 6) Officers may use media captured via Axon Body Worn Camera to assist with investigations.
- 7) Officers may use media captured via Axon Body Worn Camera to assist in completing reports.
- 8) Media captured using Axon Body Worn Camera may be used for training purposes, with proper authorization from the Chief of Police.
- 9) Media captured using the Axon Body Worn Camera will be accessed using Evidence.com (or external media hard drive if Evidence.com is no longer in use by the agency)
- 10) Officers shall label evidence with Offense, Arrest, Accident or Citation number in the "ID section. (20BAR-555-OF, 20BAR-555-AR, 20BAR-555-AC, 20BAR-555-CN, or 20BAR-555-RO)
- 10) Officers shall enter the "Title" section descriptions with the Offense, Arrest, Accident, Restraint, followed by the officers last name and the video number. (20BAR-555-OF Joy 1, 20BAR-555-AR Joy 1, 20BAR-555-AC Joy 1, 20BAR-555-RO Joy 1)
- 11) All Officers will assign the appropriate pre-created category for the digital recording.

G. Axon Body Worn Camera Data Retention

1. All recordings shall be securely stored no later than the end of each shift, or as soon thereafter as is reasonably practicable, in the conformity to the most recent security policy of the Criminal Justice Information Services (CJIS).
2. Recordings shall not be divulged or used by the Barrington Police Department for any commercial or other non-law enforcement purpose. Where the Barrington Police Department authorizes a third party to act as its agent in storing recordings, the agent shall not independently access, view or alter any recording, except to delete videos as required by law or this policy. Neither the Barrington Police Department, nor its agent shall subject any recording to analysis or analytics of any kind, including without limitation facial recognition technology and data mining.
3. Recordings made by an Axon Body Worn Camera shall be permanently destroyed by overwriting or otherwise no sooner than 30 days and no longer than 180 days from the date the images were recorded, except that such recordings shall be retained by the Barrington Police Department for any sworn law enforcement officer

whose Axon Body Worn Camera recording, or authorized agent thereof, for a minimum of 3 years if the recording captures images involving any of the following:

- a. Any action by a Barrington Police Officer that involves deadly force or deadly restraint;
 - b. The discharge of a firearm, unless for destruction of an animal;
 - c. Death or serious bodily injury;
 - d. An encounter about which a complaint has been filed with the Barrington Police Department within 30 days after the encounter;
 - e. The recording is being retained by the Barrington Police Department or for another law enforcement agency where a Barrington Police Officer assisted under mutual aid or other jurisdictional authority, as evidence in a civil or criminal case or as part of an internal affairs investigation or as part of an employee disciplinary investigation.
4. If there is any other legal requirement for retaining the recordings, including but not limited to litigation, a pending criminal case, a valid court or administrative order, then the recording shall be retrained only as long as is legally required; and
 - a. The Chief of Police may designate the recording as a training tool, provided that a person's image and vehicle license plate numbers shall first be permanently deleted, distorted, or obscured, or the person has been given an opportunity in writing to decline to have his or her image and/or vehicle license plate number be so used. A recording so designated and prepared may be viewed solely by officers for training purposes only.
 5. Any recording undertaken in violation of this chapter or any other applicable law shall be immediately destroyed and, whether destroyed or not, shall not be admissible as evidence in any criminal or civil or administrative proceeding, except in a proceeding against an officer for violating the provisions of New Hampshire RSA 105-D, the recording shall be destroyed at the conclusion of the proceeding and all appeals.
 6. All images and sounds recorded by the Axon Body Worn Camera are the exclusive property of the Barrington Police Department. Accessing, copying, or releasing files for non-law enforcement purposes is strictly prohibited.
 7. All access to the Axon Body Worn Camera files must be specifically authorized by the Chief of Police and all access is to be periodically audited to ensure that only authorized users are accessing the data for legitimate and authorized purposes.
 8. Files will be securely stored in accordance with State law and as detailed in this policy.

H. Reporting

1. The use of the Axon Body Worn Camera shall be documented in all Offense, Accident, Arrest, and Citation reports.
2. Requests for deletion of portions of the recordings (in the event of a personal recording) must be submitted in e-mail writing through the Barrington Police Department evidence.com account mail and approved by the Chief of Police in accordance with State record retention laws. These request e-mails shall be kept on file.
3. Officers will note in incident, arrest, accident, restraint, and citation narratives that the Axon Body Worn Camera was used. Axon Body Worn Camera are not a replacement for written reports.
4. Officers may use Axon Body Worn Camera media to assist in writing police reports.

I. Security of Media

1. All media collected using the Axon Body Worn Camera is considered a record of the Barrington Police Department. Accessing, copying or releasing any media for other than official law enforcement use is strictly prohibited.
2. Media shall be released through the Chief of Police.
3. Some examples of inappropriate and unauthorized use of digital media include:
 - (a) Publishing digital media on internet sources similar to YouTube.com
 - (b) Using a recording device such as a phone or secondary video camera to record media from Evidence.com.
 - (c) In no event shall any recording be used or shown for the purpose of ridicule or embarrassment of an employee.
 - (d) Digital evidence marked as sensitive will only be accessible by the Chief of Police. In the event an authorized outside agency, County Attorney, Attorney General, NH State Police Major Crimes Unit, needs to view evidence the Chief of Police shall be the only person allowed to authorize the release of said evidence.
 - (e) Video recordings made by a law enforcement officer using a body-worn camera pursuant to RSA 105-D shall be exempt from release under RSA 91-A:5, except where such recordings depict any of the following:
 - (i) Any restraint or use of force by a law enforcement officer; provided, however, that this exemption shall not include those portions of the recordings which constitute an invasion of privacy of any person or which otherwise exempt from disclosure.
 - (ii) The discharge of a firearm.
 - (iii) An encounter that results in an arrest for a felony-level offense, provided however, that this exemption shall not apply to recordings or portions thereof that constitute an invasion of privacy or which are otherwise exempt from disclosure.
 - (f)

J. Training

1. Officers shall receive training in use and downloading of Axon Body Worn Camera and media prior to use.
2. Officers shall be signed off by Chief of Police or his designee after training on knowledge and proper use prior to deployment of Axon Body Worn Camera.

K. Wear position and Location

1. Officers shall wear the Axon Body Worn Camera in the manner designated the Chief of Police.
2. Axon Body Worn Camera shall not be disconnected from its cable after the start of an officers' shift.
3. Controller shall be worn at the top of uniform shirt clipped to the mic strap on the center of the uniform shirt or with the Chief's permission in the right front pocket, for easiest retention.

L. Penalty for Violation of this Policy

Any officer who violates any portion of this policy may be subject to disciplinary action.

Source

Milton Police Department
Weare Police Department
RSA 105-D
RSA 91-A:5
RSA 570-A:2